

**INITIAL STATEMENT OF REASONS**

**TITLE 17 CALIFORNIA CODE OF REGULATIONS**

**SUBCHAPTER 4. RESIDENTIAL SERVICES AND QUALITY ASSURANCE  
REGULATIONS**

**Direct Care Staff Training Regulations**

**CERTIFICATE OF COMPLIANCE RULEMAKING**

**INITIAL STATEMENT OF REASONS**

The Department proposes the emergency amendment of Title 17, California Code of Regulations, Division 2, Chapter 3, Subchapter 4, by amending Article 1 (Definitions) Section 56002; adopting Article 6 (Welfare and Institutions Code Section 4685.5 Direct Care Staff Training Regulations) Sections 56031, 56033, 56034, 56034.1 and 56035; amending Article 7 (Personnel) Sections 56036, 56037 and 56038; amending Article 8 (Monitoring and Evaluation) Section 46048; amending Article 9 (Corrective Action Plans and Sanctions) Sections 56054 and 56057; amending Article 10 (Records Maintenance) Sections 56059 and 56060. The Department also proposes the emergency amendment of Title 17, California Code of Regulations, Division 2, Chapter 3, by adopting Subchapter 4.3 (Verification of Use of Rate Increase Funds) Sections 56931, 56932, 56933, 56934, 56936 and 56937.

**Description of the Public Problem, Administrative Requirement or Other  
Condition or Circumstance the Regulations Are Intended to Address**

The Department of Developmental Services proposes to improve quality of care provided to consumers in community care facilities by increasing the level of salaries and wages currently paid to direct care staff and to require an enhanced level of direct care staff training which is intended to increase direct care staff competency and efficiency in service delivery without adversely impacting consumer health and safety.

Senate Bill 2780 (Chapter 310, Statutes of 1998) amends the Lanterman Developmental Disabilities Services Act (Welfare and Institutions Code Section 4500, et seq.) by adding Section 4681.4, which authorizes a rate increase for all Service Level 2, 3, and 4 Alternative Residential Model (ARM) facilities. Senate Bill 2780 also adds Section 4681.5, which requires a competency-based training and competency testing program for all direct care staff.

Specifically, Welfare and Institutions Code Section 4681.4(e) requires the Department to adopt emergency regulations which:

1. Establish a process for enforcing the requirements for the authorized uses of rate increase funding.
2. Establish the consequences to providers for failing to use rate increase funds as authorized by Welfare and Institutions Code Section 4681.4(c), and to establish an exception process for allowing rate increase funds to be used for purposes other than those set forth in Welfare and Institutions Code Section 4681.4(c).
3. Establish a process for adjudicating appeals of providers subjected to consequences for using rate increase funds for an unauthorized purpose.

In addition, Welfare and Institutions Code Section 4681.5(e) requires the Department to adopt emergency regulations which:

1. Establish requirements for satisfactory completion of the 70-hour competency-based direct care staff training.
2. Provide for the enforcement of the 70-hour competency-based training requirement.
3. Address continuing education requirements beyond the initial 70 hours of required competency-based training.
4. Provide for exceptional circumstances in which waiving direct care staff competency-based training and competency testing requirements may be allowed without adversely impacting the health and safety of consumers.

Welfare and Institutions Code Section 4681.4(e) authorizes the Department to adopt regulations which shall include, but not be limited to:

1. A process for enforcing the requirements of Welfare and Institutions Code Section 4681.4(c) for the authorized uses of the rate increase funds and for the establishment of requirements for providers to report to regional centers the information necessary for the Department to determine, through the regional center, compliance with the authorized uses of the rate increase funds.
2. The consequences to an ARM provider for failing to comply with the requirements of Welfare and Institutions Code 4681.4(c), which authorizes the uses of the rate increase funds; and failure to comply with Welfare and Institutions Code Section 4681.4(d) which authorizes providers to report to regional centers, in a format and frequency determined by the Department, information necessary for the Department to determine, through the regional center, compliance with subdivision (c), including, but not limited to, direct care staff salaries, wages, benefits, and staff turnover.

3. A process for adjudicating provider appeals.

Welfare and Institutions Code Section 4681.5(e) authorizes the Department to adopt emergency regulations which shall include, but not be limited to:

1. Requirements for satisfactory completion of the 70 hours of direct care staff competency-based training.
2. Provisions for enforcement of competency-based training requirements.
3. Continuing education requirements beyond the initial 70 hours of required competency-based training.
4. Provisions for waiving staff competency-based training and competency testing requirements, provided that waivers shall not adversely impact the health and safety of ARM facility consumers.

This rulemaking is being adopted to implement and make specific the authorizations of Welfare and Institutions Code Sections 4681.4(e) and 4681.5(e).

## **AUTHORITY AND REFERENCE**

Authority: Section 11152, Government Code; Sections 4681.4(e) and 4681.5(e), Welfare and Institutions Code.

Reference: Sections 4681.4 and 4681.5, Welfare and Institutions Code; Section 1085.2, Title 22, California Code of Regulations.

## **Article 1. Definitions**

### Section 56002. Definitions.

#### Section 56002(a)(12).

This proposal is being adopted to add the phrase “the licensee, administrator and” and to add a reference to “supervision and special services.”

#### Rationale for Necessity:

This regulation is necessary to enhance the clarity of Section 56002(a)(12) by specifying that the term “direct care staff” includes the both the licensee and the administrator during the time when they are providing direct supervision and special services to consumers or are involved in performing program preparation functions.

Section 56002(a)(13).Specific Purpose:

This proposal is being adopted to retain the definition of the word “Director.”

Rationale for Necessity:

This change is necessary to maintain the alphabetical order of the section. This definition was deleted from Section 56002(a)(14) for number ordering purposes.

Section 56002(a)(14).Specific Purpose:

This proposal is being adopted to amend the definition of the phrase “direct supervision.”

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5 by clarifying the activities which are performed by direct care staff when the direct care staff is providing direct supervision to consumers.

Section 56002(a)(14).Specific Purpose:

This proposal is being adopted to delete the current definition of the word “Director.”

Rationale for Necessity:

This regulation is necessary to maintain consistency with the proposed adoption of the definition of the word “Director” in Section 56002(a)(13) and to maintain the alphabetical order of the section.

Section 56002(a)(41).Specific Purpose:

This proposal is being adopted to delete the word “Help” and to adopt the word “Care.”

Rationale for Necessity:

This regulation is necessary to clarify that “Self Care” means providing for, or meeting, a consumer’s own physical and personal needs in the areas related to eating, dressing, toileting, bathing and personal hygiene.

Section 56002(a)(48).Specific Purpose:

This proposal is being adopted to amend the definition of the phrase “special services.”

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by clarifying the definition’s syntax and adopting references to the consumer’s IPP and direct care staff.

**Article 6. Welfare and Institutions Code Section 4681.5  
Direct Care Staff Training Regulations**

Section 56031. Definitions.Section 56031(a).Specific Purpose:

This proposal is being adopted to specify that, when used in Article 6, the phrases specified in Section 56031(a)(1) through (6) shall have the meanings set forth in that section.

Rationale for Necessity:

This regulation is necessary to clarify the proposed regulations by specifying that the definitions set forth in Section 56031(a)(1) through (6) have unique meanings within the context of Article 6.

Section 56031(a)(1).Specific Purpose:

This proposal is being adopted to define the phrase, “certified family home.”

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by specifying that the phrase “certified family home” means a family residence which is certified by a licensed Foster Family Agency (FFA) and is issued a certificate or approved by that FFA as meeting licensing standards, and is used only by that FFA for the placement of children. Under the supervision and guidance of a foster family agency, certified family homes provide a unique home environment for children who are regional center consumers. The proposed regulation ensures that regional centers and all individuals who provide direct care and special services to consumers are informed of the exact meaning of the phrase “certified family home.”

Section 56031(a)(2).Specific Purpose:

This proposal is being adopted to define the phrase, “certified parent.”

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by specifying that the phrase “certified parent” means the adult(s) residing in a home which has been certified by an FFA to provide care and supervision to children placed exclusively by that FFA. Under the supervision and guidance of a foster family agency, a certified parent is an adult who has a unique parental relationship with a child who is a regional center consumer. The proposed regulation ensures that regional centers and all individuals who provide direct care and special services to consumers are informed of the exact meaning of the phrase “certified parent.”

Section 56031(a)(3).Specific Purpose:

This proposal is being adopted to define the phrase, “challenge test.”

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by specifying that the phrase “challenge test” means a Department-approved test which, if passed, substitutes for and satisfies the requirement for one of the two 35-hour competency-based training

segments authorized by Welfare and Institutions Code Section 4681.5(a), (b) and (c). The phrase “challenge test” is used throughout the text of Article 6 to refer to a competency test which may be taken and passed in lieu of a particular training and testing segment. The proposed regulation ensures that regional centers and all individuals who provide direct care and special services to consumers are informed of the exact meaning of the phrase “challenge test.”

Section 56031(a)(4).

Specific Purpose:

This proposal is being adopted to define the phrase, “competency-based training and testing.”

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by specifying that the phrase “competency-based training and testing” means the two 35-hour competency-based training courses and related competency tests which direct care staff are required by Welfare and Institutions Code Section 4681.5(a) to complete satisfactorily. The phrase “competency-based training and testing” has a specific meaning within the context of Sections 56033, 56034.1, 56054 and 56931 to refer to the process by which direct care staff are trained and tested to determine their competence to provide direct supervision and special services to consumers without creating an adverse impact on consumer health and safety. The proposed regulation ensures that the regional centers and all individuals who provide direct care and special services to consumers are informed of the exact meaning of the phrase “competency-based training and testing”

Section 56031(a)(5).

Specific Purpose:

This proposal is being adopted to define the phrase, “direct care staff.”

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by specifying that the phrase “direct care staff” means facility staff in Service Level 2, 3 and 4 facilities, who personally provide direct supervision and special services to consumers, including the licensee and administrator only for the time that they are providing direct services to consumers. The phrase “direct care staff” is used throughout the text of Article 6 to refer to those

persons who directly provide direct supervision and special services to consumers. The proposed regulation ensures that the regional centers and all individuals who provide direct care and special services to consumers are informed of the exact meaning of the phrase “direct care staff.”

#### Section 56031(a)(6).

##### Specific Purpose:

This proposal is being adopted to define the phrase, “Foster Family Agency (FFA).”

##### Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by specifying that the phrase “Foster Family Agency (FFA) means a foster family agency as defined in Health and Safety Code Section 1502(a)(4). Health and Safety Code Section 1502(a)(4) defines “Foster family agency” to mean any organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis. The phrase “Foster Family Agency” is used in Section 56034 and 56034.1 to refer to a specific and unique residential service agency which provides a family home environment to developmentally disabled children who are regional center consumers. The proposed regulation ensures that the regional centers and all individuals who provide direct care and special services to consumers are informed of the exact meaning of the phrase “Foster Family Agency (FFA).”

#### Section 56033. Direct Care Staff Competency-Based Training and Testing Requirements.

#### Section 56033(a).

##### Specific Purpose:

This proposal is being adopted to specify that the competency-based training and testing requirements set forth in Section 56033 apply only to those direct care staff who are employed in Service Level 2, 3, and 4 facilities.

##### Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of



Welfare and Institutions Code Section 4681.5(e) by specifying the scope of Section 56033.

Section 56033(a)(1)(A).

Specific Purpose:

This proposal is being adopted to specify that direct care staff employed in Service Level 2, 3, and 4 facilities before January 1, 2000 to satisfactorily complete the first 35-hour competency-based training course and pass the competency test applicable to that training segment, or to pass a challenge test applicable to that training segment.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(b) by specifying an exact date by which a direct care staff who was employed in a Service Level 2, 3 or 4 facility before January 1, 2000 is required to complete the first 35-hour training segment or to pass a challenge test applicable to that segment.

Section 56033(a)(1)(B).

Specific Purpose:

This proposal is being adopted to specify that direct care staff employed in Service Level 2, 3, and 4 facilities before January 1, 2000 have until December 31, 2002 to satisfactorily complete the second 35-hour competency-based training course and pass the competency test applicable to that training segment, or to pass a challenge test applicable to that training segment.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(b) by specifying an exact date by which a direct care staff who was employed in a Service Level 2, 3 or 4 facility before January 1, 2000 is required to complete the second 35-hour training segment or to pass a challenge test applicable to that training segment.

Section 56033(a)(2)(A).

Specific Purpose:

This proposal is being adopted to require direct care staff hired in Service Level 2, 3,

and 4 facilities on or after January 1, 2000 to have one year from the date on which the direct care staff was hired to satisfactorily complete the first 35-hour competency-based training course and to pass the competency test applicable to that training segment.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(c) by specifying an exact date by which a direct care staff who was hired in a Service Level 2, 3 or 4 facility on or after January 1, 2000 is required to complete the first 35-hour training segment or to pass a challenge test applicable to that training segment.

Section 56033(a)(2)(B).

Specific Purpose:

This proposal is being adopted to specify that direct care staff hired in Service Level 2, 3, and 4 facilities on or after January 1, 2000 shall have two years from the date on which the direct care staff was hired to satisfactorily complete the second 35-hour competency-based training course and pass the competency test applicable to that training segment.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(c) by specifying an exact date by which a direct care staff who was hired in a Service Level 2, 3 or 4 facility on or after January 1, 2000 is required to complete the second 35-hour training segment or to pass a challenge test applicable to that training segment.

Section 56033(b).

Specific Purpose:

This proposal is being adopted to require the Department, after the direct care staff completes a challenge test for either of the two 35-hour training segments, to notify the direct care staff in writing of the results of the challenge test.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e)(1) by ensuring that the Department provides the direct care staff with written notification of the results of the challenge test.

The proposed regulation ensures that any direct care staff who takes a challenge test for either of the two 35-hour training segments will be provided with a written notice which documents the results of the challenge test.

Section 56033(b)(1).

Specific Purpose:

This proposal is being adopted to require a direct care staff who does not pass the challenge test to take the applicable competency-based training and competency test required by subsection (a)(1) or (2).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e)(1) by requiring a direct care staff who does not pass the challenge test to take the applicable competency-based training and competency test pursuant to subsection (a)(1) or (2). The proposed regulation prevents an adverse impact on consumer health and safety by ensuring that all direct care staff either pass a challenge test or take the applicable competency-based training and competency testing.

Section 56033(b)(2).

Specific Purpose:

This proposal is being adopted to limit a direct care staff to one challenge test for each of the two 35-hour training segments prior to attending the related competency-based training and testing segment.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e)(1) by imposing a reasonable limitation which ensures that a direct care staff takes only one challenge test for each of the two 35-hour training segments prior to attending the related competency-based training and testing segment. The proposed regulation ensures that there is a finite limit on the number of challenge tests which can be taken by a direct care staff before he/she attends the related competency-based training and testing segment.

Section 56033(c).

Specific Purpose:

This proposal is being adopted to require each direct care staff to take a competency test to assess the direct care staff's competency in specific knowledge area(s) after the direct care staff completes either 35-hour training segment.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5 and 4681.5(e)(1) by ensuring that a direct care staff who has completed either 35-hour training segment subsequently takes a competency test for the purpose of assessing his/her competency in specific knowledge area(s).

Section 56033(d)(1).

Specific Purpose:

This proposal is being adopted to require the Department, within 60 days of a direct care staff taking the competency test for either of the 35-hour training segments, to provide the direct care staff and his/her administrator with written notification that the direct care staff has satisfactorily completed the competency testing requirement for the applicable 35-hour training segment.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(a) and 4681.5(e)(1) by requiring the Department to provide written documentation, which is available for future reference, to a direct care staff who has satisfactorily completed the competency testing requirement for the applicable 35-hour training segment that the 35-hour training segment has been satisfactorily completed.

Section 56033(d)(2).

Specific Purpose:

This proposal is being adopted to require the Department, within 60 days of a direct care staff taking the competency test for either of the 35-hour training segments, to provide the direct care staff and his/her administrator with written notification that the direct care staff has satisfactorily completed the competency testing requirement for the applicable 35-hour training segment with knowledge area(s) identified as needing improvement.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Sections 4681.5(a) and 4681.5(e)(1) by requiring the Department to provide a written document, which is available for future reference, to a direct care staff who has satisfactorily completed the competency testing requirement for the applicable 35-hour training segment with knowledge area(s) identified as needing improvement which informs the direct care staff that he/she has satisfactorily completed the competency testing requirement for the applicable 35-hour training segment with knowledge area(s) identified as needing improvement .

Section 56033(d)(3).Specific Purpose:

This proposal is being adopted to require the Department, based upon the results of the competency test for either of the 35-hour training segments, to provide the direct care staff and his/her administrator with written notification that he/she has failed to satisfactorily complete the competency testing requirement for the applicable 35-hour training segment.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(a) and 4681.5(e)(1) by ensuring that the Department provides a written document, which is available for future reference, to a direct care staff who has failed to satisfactorily complete the competency testing requirement for the applicable 35-hour training segment which informs the direct care staff that he/she has failed to satisfactorily complete the competency testing requirement for the applicable 35-hour training segment.

Section 56033(e).Specific Purpose:

This proposal is being adopted to require the administrator to be responsible for ensuring that any direct care staff who has knowledge area(s) identified pursuant to subsection (d)(2) as needing improvement obtains the additional training.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(a) and 4681.5(e)(1) by requiring the

administrator to be responsible for ensuring that any direct care staff who has knowledge area(s) identified as needing improvement obtains any additional training which is necessary to enable the direct care staff to satisfactorily complete the competency testing requirement for the 35-hour training segment for the knowledge area(s) which was identified as needing improvement.

Section 56033(f)(1).

Specific Purpose:

This proposal is being adopted to authorize direct care staff who fail to satisfactorily complete the testing requirement to continue to provide direct supervision and special services to consumers only when the administrator ensures that the direct care staff repeats the applicable 35-hour training segment and retakes the competency test for that training segment.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(a) and 4681.5(e)(1) by authorizing a direct care staff who has failed to satisfactorily complete the testing requirement to continue to provide direct supervision and special services to consumers only when the administrator has ensured that the direct care staff is in the process of repeating the applicable 35-hour training segment and is preparing to retake the competency test for the training segment for which the direct care staff had a knowledge area(s) identified as needing improvement. The Department believes that this is a reasonable limitation on the duties of the direct care staff which is consistent with the necessity to prevent an adverse impact on consumer health and safety.

Section 56033(f)(2).

Specific Purpose:

This proposal is being adopted to authorize direct care staff who fail to satisfactorily complete the testing requirement to continue to provide direct supervision and special services to consumers only when the administrator ensures that the direct care staff provides direct supervision and special services in the presence of another direct care staff who has satisfactorily completed the applicable 35-hour training segment, or has passed the challenge test applicable to that training segment.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of

Welfare and Institutions Code Section 4681.5(a) and 4681.5(e)(1) by authorizing a direct care staff who has failed to satisfactorily complete the testing requirement to continue to provide direct supervision and special services to consumers only in a situation in which another direct care staff who has satisfactorily completed the applicable 35-hour training segment, or who has passed the applicable challenge test, is in the immediate presence of the direct care staff. The Department believes that this is a reasonable limitation on the duties of the direct care staff which is consistent with the necessity to prevent an adverse impact on consumer health and safety.

Section 56033(f)(2)(A).

Specific Purpose:

This proposal is being adopted to require the administrator, if the facility is unable to satisfy the requirement in subsection (f)(2), to comply with any condition(s) that the regional center may require to protect consumer health and safety.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(a) and 4681.5(e)(1) by requiring the administrator to comply with any additional condition(s), other than those specified in subsection (f)(1) and (2), which the regional center believes are consistent with the need to deliver direct supervision and special services to consumers and to prevent an adverse impact on consumer health and safety.

Section 56033(g).

Specific Purpose:

This proposal is being adopted to authorize the requirement of subsection (f)(2) to remain in effect until such time as the direct care staff has satisfactorily completed the competency test for the applicable 35-hour training segment.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(a) and 4681.5(e)(1) by authorizing the status of the direct care staff who has failed to satisfactorily complete the competency test for the applicable 35-hour training segment to remain in effect until the direct care staff has passed the applicable competency test for the knowledge area(s) identified as needing improvement. The Department believes that this is a reasonable requirement which is necessary to prevent an adverse impact on consumer health and safety and to

ensure that the direct care staff obtains the optimum level of competence before resuming the full duties of a direct care staff.

Section 56033(h)(1).

Specific Purpose:

This proposal is being adopted to require the direct care staff who has previously failed to complete the competency test for the first 35-hour training segment, but has re-taken and passed the competency test the second time, to have one year from the date of written notification to satisfactorily complete the second 35-hour training segment.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(a) and 4681.5(e)(1) by requiring the direct care staff, who has previously failed to satisfactorily complete the competency test for the first 35-hour training segment, but has re-taken and passed the competency test to have a period of one year from the date of written notification to satisfactorily complete the second 35-hour training segment. The Department believes that one year is a reasonable period of time for a direct care staff who has previously failed to complete the competency test for the first 35-hour training segment to gain the competence to satisfactorily complete the second 35-hour training segment without creating an adverse impact on consumer health and safety.

Section 56033(h)(2).

Specific Purpose:

This proposal is being adopted to require the direct care staff who has previously failed to complete the competency test for the first 35-hour training segment to have no more than two years from the date the direct care staff was hired to satisfactorily complete the second 35-hour training segment.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(a) and 4681.5(e)(1) by requiring the direct care staff who has previously failed to satisfactorily complete the competency test for the first 35-hour training segment to have no more than two years from the date the direct care staff was hired to satisfactorily complete the second 35-hour training segment. The Department believes that two years is a reasonable period of time for a direct care staff who has previously failed to complete the competency test for the first



35-hour training segment to gain the competence to satisfactorily complete the second 35-hour training segment without creating an adverse impact on consumer health and safety.

Section 56033(i).

Specific Purpose:

This proposal is being adopted to require an administrator to enroll direct care staff in the training required by subsection (a)(1) or (2) on a schedule which ensures the opportunity for satisfactory completion of the training by all of the facility's direct care staff who are required to complete the training.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(a) and 4681.5(e)(1) by requiring the administrator to ensure an equal opportunity for satisfactory completion of the training by all of the facility's direct care staff who are required to complete the training by enrolling the direct care in the training on a schedule which ensures equity in the satisfactory completion of the training by all of the facility's direct care staff. The Department believes that the proposed regulation establishes equity of access to the competency-based training and testing authorized by Welfare and Institutions Code Section 4681.5(a) and (b) for all facility staff.

Section 56034. Training and Testing Requirements for Foster Family Agencies (FFAs).

Specific Purpose:

This proposal is being adopted to require the administrator of the FFA or his or her designee, and at least one other individual from each FFA suboffice, to satisfactorily complete the training and testing required by Section 56033(a)(1) or (2).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(a) and 4681.5(e) by requiring key FFA personnel to satisfactorily complete the training and testing required by Section 56033(a)(1) or (2). FFAs are specialized social service agencies which recruit and extensively train their own staff. However, the Department believes that key FFA staff should be familiar with the procedures for delivering direct supervision and special services to consumers in community care facilities. The proposed regulation ensures that the individual who has responsibility for the management of the FFA and an

individual designated by him/her is competent in the knowledge area(s) covered by the competency-based training and competency testing authorized by Welfare and Institutions Code Section 4681.5(a) and (b).

Section 56034.1. Foster Family Agency Waiver Requirements.

Section 56034.1(a).

Specific Purpose:

This proposal is being adopted to authorize the regional center to waive the requirement for certified parents and FFA staff, other than as required in Section 56034, who provide direct supervision and special services to children who are regional center consumers to complete the direct care staff competency-based training and testing requirements which are specified in Section 56033(a)(1) and (2).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e)(4) by authorizing the regional center to permit the FFA to not be required to comply with Section 56033(a)(1) and (2).

Section 56034.1(b)(1).

Specific Purpose:

This proposal is being adopted to require the FFA, in order to request a waiver pursuant to subsection (a), to submit a training plan to the regional center which is required to include, but not be limited to, a description of how the FFA's training program is consistent with the requirements for competency-based training which are authorized by Welfare and Institutions Code Section 4681.5.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e)(4) by requiring the FFA, in order to obtain a waiver of the requirements of Section 56033(a)(1) and (2), to submit a training plan to the regional center which includes, but is not limited to, a description of how the FFA's training program is consistent with the requirements for competency-based training which are authorized by Welfare and Institutions Code Section 4681.5. The Department believes that the FFA, prior to obtaining a waiver pursuant to subsection (a), should be required to submit a document which establishes the consistency of the FFA's training plan with the training for which the waiver is being sought. The

Department believes that the proposed regulation is consistent with Welfare and Institutions Code Section 4681.5(e)(4) which requires waivers not to adversely impact consumer health and safety.

Section 56034.1(b)(2).

Specific Purpose:

This proposal is being adopted to require the FFA, in order to request a waiver pursuant to subsection (a), to submit a training plan to the regional center which is required to include, but not be limited to, the titles of all FFA staff who are required to attend the FFA's training.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by requiring the FFA, in order to obtain a waiver of the requirements of Section 56033(a)(1) and (2), to submit a training plan to the regional center which includes, but is not limited to, the titles of all FFA staff who are required to attend the FFA's training. The proposed regulation informs the regional center of the role of individual staff within the FFA's administrative hierarchy.

Section 56034.1(b)(3).

Specific Purpose:

This proposal is being adopted to require the FFA, in order to request a waiver pursuant to subsection (a), to submit a training plan to the regional center which is required to include, but not be limited to, the number of hours of training required by the FFA's training plan.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e)(4) by requiring the FFA, in order to obtain a waiver of the requirements of Section 56033(a)(1) and (2), to submit a training plan to the regional center which includes, but is not limited to, the number of hours of training required by the FFA's training plan. The proposed regulation is necessary to establish the consistency of the FFA's training plan with the number of hours required by the training authorized by Welfare and Institutions Code Section 4681.5(a) and (b).

Section 56034.1(b)(4).

Specific Purpose:

This proposal is being adopted to require the FFA, in order to request a waiver pursuant to subsection (a), to submit a training plan to the regional center which is required to include, but not be limited to, the period of time over which the FFA's training is to be provided.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e)(4) by requiring the FFA, in order to obtain a waiver of the requirements of Section 56033(a)(1) and (2), to submit a training plan to the regional center which includes, but is not limited to, the period of time over which the FFA's training is to be provided. Section 56033(a) and (b) requires two 35-hour training segments over a specified period of time. The proposed regulation enables the regional center to determine the consistency between the FFA's time frame for providing their training and the time frames specified in Section 56033(a) and (b).

Section 56034.1(b)(5).Specific Purpose:

This proposal is being adopted to require the FFA, in order to request a waiver pursuant to subsection (a), to submit a training plan to the regional center which is required to include, but not be limited to, a training schedule for FFA staff who are currently employed and those who are hired following the effective date of these regulations.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e)(4) by requiring the FFA, in order to obtain a waiver of the requirements of Section 56033(a)(1) and (2), to submit a training plan to the regional center which includes, but is not limited to, a training schedule for FFA staff who are currently employed and those who become employed following the effective date of these regulations. Section 56033(a)(1) and (b)(1) establish time frames for the completion of the training authorized by Welfare and Institutions Code Section 4681.5(a) and (b). The proposed regulation ensures consistency between the time frames specified in Section 56033(a)(1) and (b)(1) and the time frames set forth in the FFA's training plan.

Section 56034.1(b)(6).

Specific Purpose:

This proposal is being adopted to require the FFA, in order to request a waiver pursuant to subsection (a), to submit a training plan to the regional center which is required to include, but not be limited to, the titles and qualifications of those individuals who will conduct the FFA's training.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e)(4) by requiring the FFA, in order to obtain a waiver of the requirements of Section 56033(a)(1) and (2), to submit a training plan to the regional center which includes, but is not limited to, the titles and qualifications of those individuals who will conduct the FFA's training. The proposed regulation enables the regional center to determine the individual staff member's position within the FFA hierarchy and his/her professional credentials.

Section 56034.1(b)(7).Specific Purpose:

This proposal is being adopted to require the FFA, in order to request a waiver pursuant to subsection (a), to submit a training plan to the regional center which is required to include, but not be limited to, a methodology for assessing individual competency in the knowledge area(s) included in the training.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e)(4) by requiring the FFA, in order to obtain a waiver of the requirements of Section 56033(a)(1) and (2), to submit a training plan to the regional center which includes, but is not limited to, a methodology for assessing individual competency in the knowledge area(s) included in the FFA's training plan. Welfare and Institutions Code Section 4681.5(a) and (b) require competency testing as a means of assessing a direct care staff's knowledge of the material presented in the competency-based training and testing authorized by that section. The proposed regulation enables the regional center to evaluate the consistency of the FFA's evaluation methodology with the procedures used to evaluate competency testing authorized by Welfare and Institutions Code Section 4681.5(a) and (b).

Section 56034.1(c).

Specific Purpose:

This proposal is being adopted to require the regional center, within 45 days of receiving a complete training plan from an FFA, to either approve or deny the FFA's request for a waiver.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by requiring the regional center, within 45 days of receiving a complete training plan from an FFA, to either approve or deny the FFA's request for a waiver and to notify the FFA in writing, by certified mail, of the regional center's approval or denial. The proposed regulation establishes a finite period of time for the regional center to approve or deny the FFA's request for a waiver and to provide a written document to the FFA, which is available for future reference, and which establishes the date of the regional center's approval or denial of the FFA's training plan.

Section 56034.1(d).Specific Purpose:

This proposal is being adopted to authorize the FFA, if the FFA's request for a waiver is denied by the regional center, to appeal the regional center's denial of the FFA's request for a waiver to the Department within fifteen days of the regional center's denial of the FFA's request for a waiver.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e)(4) by authorizing the FFA, if the FFA's request for a waiver is denied by the regional center, to appeal the regional center's denial of the FFA's request for a waiver to the Department within fifteen days of the regional center's denial of the FFA's request for a waiver. The proposed regulation establishes an avenue of appeal for the FFA to contest a regional center denial of the FFA's training plan which is consistent with the procedures set forth in Section 56064(a) for a residential service provider to appeal the decision of the regional center to the Department.

Section 56034.1(e)(1).Specific Purpose:

This proposal is being adopted to require the FFA, in order to file and appeal, to send to the Department a copy of the training plan which was submitted to the regional center by the FFA.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e)(4) by requiring the FFA, in order to file an appeal, to send to the Department a copy of the training plan which was submitted to the regional center by the FFA. The review of the FFA's denied training plan is a key element in the Department's decision to uphold or deny the regional center's denial of an FFA's training plan. The proposed regulation ensures that the Department has access to the FFA's training plan before it rules on the FFA's appeal of the regional center's denial.

Section 56034.1(e)(2).

Specific Purpose:

This proposal is being adopted to require the FFA, in order to file and appeal, to send to the Department a copy of the regional center's written denial of the FFA's request for a waiver.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e)(4) by requiring the FFA, in order to file an appeal, to send to the Department a copy of the training plan which was submitted to the regional center by the FFA. The proposed regulation ensures that the Department is able to review the reasons for the regional center's denial of the FFA's training plan prior to rendering a decision to uphold or deny the regional center's denial of the FFA's request for a waiver.

Section 56034.1(e)(3).

Specific Purpose:

This proposal is being adopted to require the FFA, in order to file and appeal, to send to the Department any other information which the FFA considers appropriate to the appeal.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e)(4) by requiring the FFA, in order to file an appeal, to send to the Department any other information which the FFA considers appropriate to the appeal. The proposed regulation ensures that the Department is informed of any information which the FFA considers appropriate to the appeal before the Department renders a decision to uphold or deny the regional center's denial of the FFA's request for a waiver.

Section 56034.1(f).

Specific Purpose:

This proposal is being adopted to require the Department to render a written decision to uphold or deny the regional center's denial of the FFA's request for a waiver within forty-five days of receipt of the information submitted pursuant to subsection (e)(1) through (3).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e)(4) by requiring the Department to render a written decision to uphold or deny the regional center's denial of the FFA's request for a waiver within forty-five days of receipt of the information submitted pursuant to subsection (e)(1) through (3). The proposed regulation ensures that the Department renders a decision to uphold or deny the FFA's request for a waiver and establishes a reasonable time frame for the rendering of the Department's decision.

Section 56034.1(f)(1).

Specific Purpose:

This proposal is being adopted to require the Department's written decision to be sent to the FFA and the regional center via certified mail within 15 days of the decision being rendered.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e)(4) by requiring the Department's written decision to be sent to the FFA and the regional center via certified mail within 15 days of the decision being rendered. The proposed regulation ensures that the Department's written decision is provided to the entity which submitted the appeal and the entity which rendered the decision to deny the regional center's request for a



waiver. The proposed regulation also establishes a reasonable time frame for the mailing of the Department's decision and ensures that a record exists that the decision has been provided to both entities involved in the appeal.

Section 56034.1(g).

Specific Purpose:

This proposal is being adopted to require the Department's decision to be final.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by requiring the Department's written decision to be final. The proposed regulation clarifies that there is no other avenue of appeal for the FFA within the scope of Title 17, California Code of Regulations, Subchapter 4.

Section 56035. Waiver for Prevailing Rate Facilities.

This proposal is being adopted to specify that a facility which is paid a prevailing rate pursuant to Title 17, California Code of Regulations, Section 56019, is waived from the training and competency testing requirements specified in Section 56033(a)(1) and (2).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e)(4) by specifying that a facility which is paid a prevailing rate pursuant to Title 17, California Code of Regulations, Section 56919, is waived from the training and competency testing requirements specified in Section 56033(a)(1) and (2). Title 17, California Code of Regulations, Section 56919 (Usual and Customary Fees and Prevailing Rates) requires the regional center to request approval by the Department for the payment of usual and customary fees or prevailing rates and authorizes the Department, at its discretion, to approve prevailing rates for facilities which meet the criteria established in Section 56004 for a residential facility and which have a rate established by another governmental agency. Prevailing rate facilities come under the scope of authority of a state agency other than the Department, e.g., the Department of Social Services, and are monitored and inspected by that state agency pursuant to regulations which have been lawfully adopted by the state agency. Prevailing rate facilities are also required to comply with any staff training requirements which are required by the monitoring agency and are monitored for compliance with those training requirements. For these reasons, the Department has determined that it is reasonable to waive the requirements of Section 56033(a) and

(b) for this category of facility.

Section 56036. Training Plans.

Section 56036(b)(4).

Specific Purpose:

This proposal is being adopted to require the facility staff training plan to include a training component which specifies any additional training which is necessary to address any knowledge area(s) which is identified in the written notice pursuant to Section 56033(d)(2) as needing improvement.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by requiring the facility staff training plan to include a training component which specifies any additional training which is necessary to address any knowledge area(s) which is identified in the written notice pursuant to Section 56033(d)(2) as needing improvement. The proposed regulation ensures that each Service Level 2, 3 or 4 facility will have a written record of how and when the additional training for a direct care staff who has been identified to have knowledge area(s) which need improvement will be provided.

Section 56036(b)(4)(A).

Specific Purpose:

This proposal is being adopted to require the facility staff training plan to specify a time frame for completing the additional training which shall be no more than one year from the receipt of the written notification pursuant to Section 56033(d)(2).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by requiring the facility staff training plan to include a training component which specifies any additional training which is necessary to address any knowledge area(s) which is identified in the written notice pursuant to Section 56033(d)(2) as needing improvement. The proposed regulation establishes a reasonable requirement which enables the regional center to determine the time frame for the completion of additional training by a direct care staff who has had knowledge area(s) identified which as needing improvement and that the time frame is consistent with the time frames for satisfactory completion of the competency-

based training and competency testing required by Section 56033(a) and (b).

Section 56037. Administrator Qualifications and Continuing Education.

Section 56037(e).

Specific Purpose:

This proposal is being adopted to require Service Level 2, 3 and 4 administrators providing direct supervision and special services to complete any additional training in a specific knowledge area(s) which have been identified in the written notification pursuant to Section 56033(d)(2) as needing improvement.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by requiring Service Level 2, 3 and 4 administrators providing direct supervision and special services to complete all the additional training which is necessary to address any knowledge area(s) which have been identified in the written notification pursuant to Section 56033(d)(2) as needing improvement. The proposed regulation ensures that any Service Level 2, 3 or 4 administrator, who has been determined to have knowledge area(s) which need improvement, completes any additional training which may be required to improve the administrator's competency in the specific knowledge area(s).

Section 56037(f).

Specific Purpose:

This proposal is being adopted to require that successful completion of the competency-based training and passage of the competency test required by Section 56033(a)(1) or (2) shall satisfy the continuing education requirements specified in Section 56037(a), (b), (c) and (d) for an administrator for the year in which the training is successfully completed.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by requiring that successful completion of the competency-based training and passage of the competency test required by Section 56033(a)(1) or (2) shall satisfy the continuing education requirements specified in Section 56037(a), (b), (c) and (d) for an administrator for the

year in which the training is successfully completed. The proposed regulation ensures that a Service Level 2, 3 or 4 administrator is not required to duplicate the training requirements required by Section 56033(a) and (b).

Section 56037(g).

Specific Purpose:

This proposal is being adopted to require that, for administrators, passing the challenge test without attending the competency-based training required by Section 56033(a)(1) or (2) shall not satisfy the continuing education requirements specified in Section 56037.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by requiring that passing the challenge test without attending the competency-based training required by Section 56033(a)(1) or (2) shall not satisfy the continuing education requirements specified in Section 56037. The Department believes that passing the challenge test does not convey new knowledge on the administrator and that an administrator should not be absolved from taking the continuing education mandated by Section 56037 simply by passing a test. The proposed regulation ensures that an administrator who passes the challenge test it not excused from obtaining the required number of hours of continuing education.

Section 56038.      Direct Care Staff Qualifications and Continuing Education Requirements.

Section 56038(e).

Specific Purpose:

This proposal is being adopted to require direct care staff to complete any additional training in a specific knowledge area(s) which has been identified in the written notification pursuant to Section 56033(d)(2).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by requiring direct care staff to complete any additional training which is necessary to address any knowledge area(s) which have been identified in the written notification pursuant to Section 56033(d)(2) as

needing improvement. The proposed regulation ensures that any direct care staff who has been determined to have knowledge area(s) which need improvement, completes any additional training which may be required to improve the direct care staff's competency in the specific knowledge area(s) which have been identified as needing improvement.

Section 56038(f).

Specific Purpose:

This proposal is being adopted to require that successful completion of the competency-based training and passing the competency test required by Section 56033(a)(1) or (2) shall satisfy the continuing education requirements specified in Section 56037(a), (b), (c) and (d) for a direct care staff for the year in which the training is satisfactorily completed.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by requiring successful completion of the competency-based training and passing the competency test required by Section 56033(a)(1) or (2) to satisfy the continuing education requirements specified in Section 56037(a), (b), (c) and (d) for a direct care staff for the year in which the training is successfully completed. The proposed regulation ensures that a direct care staff is not required to duplicate the training requirements required by Section 56033(a) and (b).

Section 56038(g).

Specific Purpose:

This proposal is being adopted to require that passing the challenge test without attending the competency-based training required by Section 56033(a)(1) or (2) shall not satisfy the continuing education requirements specified in Section 56037.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by requiring that passing the challenge test without attending the competency-based training required by Section 56033(a)(1) or (2) does not satisfy the continuing education requirements specified in Section 56037 for any direct care staff. The Department believes that passing the challenge test does not convey new knowledge on the direct care staff and that a direct care staff should not be absolved from taking the continuing education mandated by

Section 56037 simply by passing a test. The proposed regulation ensures that a direct care staff who passes the challenge test is not excused from obtaining the required number of hours of continuing education pursuant to Section 56038.

Section 56048. Facility Liaison Quality Assurance (QA) Monitoring of the Facility.

Section 56048(d)(3).

Specific Purpose:

This proposal is being adopted to require the facility liaison to review personnel training files to assure compliance with Sections 56033, 56034, 56034.1 and 56036 through 56038.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by clarifying that the facility liaison is required to review the facility's personnel training files to assure compliance with Sections 56033, 56034, 56034.1 and 56036 through 56038. The proposed regulation ensures that documentation exists which enables the facility liaison to verify that all direct care staff are in compliance with the Department's requirements for direct care staff competency-based training and testing; that the administrator of an FFA, or his or her designee, and at least one other individual from the FFA have satisfactorily completed the competency-based training and testing or are in the process of doing so; that an FFA which has been issued a waiver has complied with the Department's foster family agency training plan requirements; that the facility's training plan includes a description of any additional training in any knowledge area(s) which have been identified as needing improvement in the written notice pursuant to Section 56033(d)(2); and that the facility training plan specifies a time frame for completing the additional training which is no more than one year from the receipt of the written notification pursuant to Section 56033(d)(2).

Section 56054. Substantial Inadequacies.

Section 56054(a)(11)(A).

Specific Purpose:

This proposal is being adopted to require substantial inadequacies to include a failure to file an accurate and complete report verifying the use of rate increase funds authorized by Welfare and Institutions Code Section 4648.1(a) or (b) as required by Title 17, California Code of Regulations, Section 56934(a).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by specifying that substantial inadequacies include licensee failure to file an accurate and complete report verifying the use of rate increase funds authorized by Welfare and Institutions Code Section 4648.1(a) or (b) as required by Title 17, California Code of Regulations, Section 56934(a). The proposed regulation ensures that a facility which does not file an accurate and complete report with the regional center which verifies the use of rate increase funds authorized by Welfare and Institutions Code Section 4648.1(a) or (b) as required by Title 17, California Code of Regulations, Section 56934(a) is cited for a substantial inadequacy by the regional center.

Section 56054(a)(11)(B).Specific Purpose:

This proposal is being adopted to require substantial inadequacies to include failure to utilize Welfare and Institutions Code Section 4681.4(a) or (b) rate increase funds for the purposes specified in Title 17, California Code of Regulations, Section 56932(a)(1) through (3).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by specifying that substantial inadequacies include a facility's failure to utilize Welfare and Institutions Code Section 4681.4(a) or (b) rate increase funds for the purposes specified in Title 17, California Code of Regulations, Section 56932(a)(1) through (3). The proposed regulation ensures that any facility which does not utilize Welfare and Institutions Code Section 4681.4(a) or (b) rate increase funds for the purposes specified in Title 17, California Code of Regulations, Section 56932(a)(1) through (3) is cited for a substantial inadequacy by the regional center.

Section 56054(a)(11)(C).Specific Purpose:

This proposal is being adopted to require substantial inadequacies to include failure to utilize Welfare and Institutions Code Section 4681.4(a) or (b) rate increase funds for a purpose which has been approved by the Department pursuant to Title 17, California Code of Regulations, Section 56932(a)(4).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by specifying that substantial inadequacies include a facility's failure to utilize Welfare and Institutions Code Section 4681.4(a) or (b) rate increase funds for a purpose which has been approved by the Department pursuant to Title 17, California Code of Regulations, Section 56932(a)(4). The proposed regulation ensures that any facility which does not utilize Welfare and Institutions Code Section 4681.4(a) or (b) rate increase funds for a purpose which has been approved by the Department pursuant to Title 17, California Code of Regulations, Section 56932(a)(4) is cited for a substantial inadequacy by the regional center.

Section 56054(a)(12)(A).Specific Purpose:

This proposal is being adopted to require substantial inadequacies to include failure to ensure that direct care staff complete the competency-based training and testing required by Section 56033(a)(1) or (2).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by specifying that substantial inadequacies include failure to ensure that direct care staff complete the competency-based training and testing required by Section 56033(a)(1) or (2). The proposed regulation ensures that any facility who has a direct care staff who does not ensure that direct care staff complete the competency-based training and testing required by Section 56033(a)(1) or (2) is cited for a substantial inadequacy by the regional center.

Section 56054(a)(12)(B).Specific Purpose:

This proposal is being adopted to require substantial inadequacies to include failure to ensure that direct care staff complete any additional training required by Section 56033(d)(2).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by specifying that substantial inadequacies include failure to ensure that direct care staff complete any additional



training required by Section 56033(d)(2). The proposed regulation ensures that any facility which does not ensure that direct care staff complete any additional training required by Section 56033(d)(2) is cited for a substantial inadequacy by the regional center.

Section 56054(a)(12)(C).

Specific Purpose:

This proposal is being adopted to require substantial inadequacies to include failure to ensure that direct care staff complies with Section 56033(f)(1) and (2) when the direct care staff has failed to satisfactorily complete the competency-based training and competency testing.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.5(e) by specifying that substantial inadequacies include failure to ensure that direct care staff comply with Section 56033(f)(1) and (2) when the direct care staff has failed to satisfactorily complete the competency-based training and competency testing. The proposed regulation ensures that any facility which has a direct care staff who has failed to satisfactorily complete the competency-based training and competency testing requirement, fails to comply with the Department's requirement for repeating the applicable 35-hour training segment and retaking the competency test for that training segment and also fails to comply with the Department's requirement for providing direct supervision and special services only in the presence of another staff who has satisfactorily completed the applicable 35-hour training or has passed the challenge test applicable to that training segment is cited for a substantial inadequacy by the regional center.

Section 56054(b).

Specific Purpose:

This proposal is being adopted to delete the phrase "if the regional center has determined that the purpose of the visit would be thwarted if advance notice were given."

Rationale for Necessity:

This regulation is necessary to clarify that, when the regional center receives a report that there are substantial inadequacies in the services of a facility, or when the regional center discovers that there are substantial inadequacies in the services of a facility, the

regional center shall have the authority to make an unannounced visit to the facility. The Department believes that the proposed amendment is necessary to make Section 56054(b) consistent with Welfare and Institutions Code Section 4648.1 as amended by Senate Bill 1038 (Chapter 1043, Statutes of 1998) which deleted the language which mandated monitoring without prior notice to be limited to situations where the department or regional center determines that the purpose of the visit would be thwarted if advance notice were given. The Department is using the authority of Government Code Section 11152 to amend Section 56054(b) for consistency with the current authorization of Welfare and Institutions Code Section 4648.1.

Section 56057. Sanctions.

Section 56057(d)(1)(A) and (B).

Specific Purpose:

This proposal is being adopted in order to delete Section 56057(d)(1)(A) and to make a change in the section's construction.

Rationale for Necessity:

This regulation is necessary to clarify that, in all findings of substantial inadequacy, the regional center may meet with the consumer, or the consumer's authorized representative, to discuss the situation, recommend relocation, and discuss the consequences of refusing to relocate. The Department believes that the proposed amendment makes Section 56054(b) consistent with Welfare and Institutions Code Section 4648.1 as amended by Senate Bill 1038 (Chapter 1043, Statutes of 1998) which deleted the requirement for the regional center or its designee to not encourage a client to move from a residential facility without a reasonable cause and that, if reasonable cause does exist, to give at least 15 days' written notice to the facility administrator of the intent, prior to counseling the client to move. The Department is using the authority of Government Code Section 11152 to amend Section 56057(d)(1)(A) and (B) for consistency with the current authorization of Welfare and Institutions Code Section 4648.1

Section 56057(e)(1).

Specific Purpose:

This proposal is being adopted in order to authorize the regional center, in addition to the actions specified in subsection (d), upon discovering that a finding of substantial inadequacy as pursuant to Section 56054(a)(11)(A) through (C) that has not been

corrected within the time frame specified in the CAP developed pursuant to Section 56056, to recover any misused or undocumented portion of the Welfare and Institutions Code Section 4681.4(a) rate increase funds.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e)(1) by authorizing the regional center to, in addition to the application of a substantial inadequacy pursuant to Section 56054(a)(11)(A) through (C), recover any portion of the Welfare and Institutions Code Section 4681.4(a) or (b) rate increase funds which has been misused by the facility or the use of which has not be documented. Welfare and Institutions Code Section 4681.4(c) mandates the uses of rate increase funds by the licensee only for increasing direct care staff salaries, wages and benefits; providing coverage while direct care staff are in training classes or taking a training or competency test pursuant to Section 4681.5; and other purposes approved by the director. In the event that the rate increase funds are used for some purpose other than those set forth in Welfare and Institutions Code Section 4681.4(c), or the use of rate increase funds is not documented by the licensee, the Department believes that it has an obligation to recover the rate increase funds through the efforts of the regional center. The proposed regulation ensures that the regional center is authorized to recover any rate increase funds which have been misused or undocumented.

Section 56057(e)(2).

Specific Purpose:

This proposal is being adopted in order to authorize the regional center, in addition to the actions specified in subsection (d), upon discovering that a substantial inadequacy pursuant to Section 56054(a)(11)(A) through (C) that has not been corrected within the time frame specified in the CAP developed pursuant to Section 56056, to offset an amount equal to the misused or undocumented portion of the Welfare and Institutions Code Section 4681.4(a) rate increase funds from future reimbursements to the licensee.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e)(1) by authorizing the regional center to, upon discovering that an application of a substantial inadequacy pursuant to Section 56054(a)(11)(A) through (C) has not been corrected within the time frame specified in the CAP developed pursuant to Section 56056, to offset an amount equal to the misused or undocumented portion of the Welfare and Institutions Code Section

4681.4(a) rate increase funds from future reimbursements to the licensee. Welfare and Institutions Code Section 4681.4(c) mandates the uses of rate increase funds which are to be used only for increasing direct care staff salaries, wages and benefits; providing coverage while direct care staff are in training classes or taking a training or competency test pursuant to Section 4681.5; and other purposes approved by the director. In the event that the rate increase funds are used for some purpose other than those specified in Welfare and Institutions Code Section 4681.4(c), or the use of rate increase funds is not documented by the licensee, the Department believes that it has an obligation to offset an amount equal to the misused or undocumented portion of the rate increase funds from future reimbursements to the licensee, i.e., to collect an overpayment. The proposed regulation ensures that the regional center is authorized to recover any rate increase funds which have been misused or undocumented through an offset to a future reimbursement to the licensee.

#### Section 56059. Residential Services Records.

##### Section 56059(c)(6)(1).

##### Specific Purpose:

This proposal is being adopted to require the facility file to contain personnel and training records adequate to verify compliance with Sections 56033, 56034 and 56034.1, if applicable, which shall include, but not be limited to, the date on which he direct care staff was hired.

##### Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by requiring the facility to maintain personnel and training records which are adequate to verify compliance with Sections 56033, 56034 and 56034.1, if applicable, which shall include, but not be limited to, the date on which he direct care staff was hired. The proposed regulation ensures that the regional center is able to verify compliance with the Department's requirements for direct care staff training , foster family agency training and testing requirements and foster family agency waiver requirements through a review of the facility file which is required to contain the date on which the direct care staff was hired.

##### Section 56059(c)(6)(2).

##### Specific Purpose:

This proposal is being adopted to require the facility file to contain personnel and

training records adequate to verify compliance with Sections 56033, 56034 and 56034.1, if applicable, which shall include, but not be limited to, the date on which he direct care staff's employment was terminated.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by requiring the facility to maintain personnel and training records which are adequate to verify compliance with Sections 56033, 56034 and 56034.1, if applicable, which shall include, but not be limited to, the date on which he direct care staff's employment was terminated. The proposed regulation ensures that the regional center is able to verify compliance with the Department's requirements for direct care staff training, foster family agency training and testing requirements and foster family agency waiver requirements through a review of the facility file which is required to contain the date on which the direct care staff's employment was terminated.

Section 56059(c)(7).

Specific Purpose:

This proposal is being adopted to require the facility file to contain a copy of any direct care staff's written notification regarding challenge or competency testing pursuant to Section 56033(b) or (d).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by requiring the facility file to contain a copy of any direct care staff's written notification regarding challenge or competency testing pursuant to Section 56033(b) or (d). The proposed regulation ensures that the regional center is able to verify compliance with the Department's requirements for direct care staff training through a review of the facility file which is required to contain a copy of any direct care staff's written notification regarding challenge or competency testing pursuant to Section 56033(b) or (d).

Section 56059(c)(8).

Specific Purpose:

This proposal is being adopted to require the facility file to contain each written approval which has been issued by the Department to authorize the use of Welfare and Institutions Code Section 4681.4(a) or (b) rate increase funds for a purpose other than

those specified in Section 56932(d)(1) through (3).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by requiring the facility file to contain each written approval which has been issued by the Department to authorize the use of Welfare and Institutions Code Section 4681.4(a) or (b) rate increase funds for a purpose which is not specified in Section 56932(d)(1) through (3). The proposed regulation ensures that the regional center is able to verify compliance with the Department's requirements for direct care staff training through a review of the facility file which is required to contain each written approval which has been issued by the Department to authorize the use of Welfare and Institutions Code Section 4681.4(a) or (b) rate increase funds for a purpose which is not specified in Section 56932(d)(1) through (3).

Section 56059(c)(9)(A).

Specific Purpose:

This proposal is being adopted to require the facility file to contain, for a Foster Family Agency (FFA), a copy of any approved FFA request for a waiver required by Section 56034.1.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by requiring the facility file to contain a copy of any approved FFA request for a waiver required by Section 56034.1. The proposed regulation ensures that the regional center is able to verify compliance with the Department's requirements for direct care staff training through a review of the facility file which is required to contain, for a Foster Family Agency (FFA), a copy of any approved FFA request for a waiver pursuant to Section 56034.1.

Section 56059(c)(9)(B).

Specific Purpose:

This proposal is being adopted to require the facility file to contain, for a Foster Family Agency (FFA), a copy of the regional center's written approval of the FFA's request for a waiver.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by requiring the facility file to contain a copy of the regional center's written approval of the FFA's request for a waiver. The proposed regulation ensures that the regional center is able to verify compliance with the Department's requirements for direct care staff training through a review of the facility file which is required to contain, for a Foster Family Agency (FFA), a copy of the written approval of the FFA's request for a waiver issued by the regional center.

Section 56059(c)(9)(C).

Specific Purpose:

This proposal is being adopted to require the facility file to contain, for a Foster Family Agency (FFA), a copy of any decision by the Department regarding any FFA appeal pursuant to Section 56034.1(f).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by requiring the facility file to contain a copy of any decision by the Department regarding any FFA appeal pursuant to Section 56034.1(f). The proposed regulation ensures that the regional center is able to verify compliance with the Department's requirements for direct care staff training through a review of the facility file which is required to contain, for a Foster Family Agency (FFA), a copy of any decision by the Department regarding any FFA appeal pursuant to Section 56034.1(f).

Section 56060.      Regional Center Records.

Section 56060(a)(12).

Specific Purpose:

This proposal is being adopted to require the regional center to maintain records which document the Department's approval of the use of Welfare and Institutions Code Section 4681.4(a) or (b) rate increase funds for a purpose other than those specified in Section 56932(a)(1) through (3).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by requiring the regional center to

maintain records which document the Department's approval of the use of Welfare and Institutions Code Section 4681.4(a) or (b) rate increase funds for a purpose other than those specified in Section 56932(a)(1) through (3). The proposed regulation ensures that the Department is able to verify regional center compliance with the requirements for direct care staff training through a review of the regional center records which document the Department's approval of the use of Welfare and Institutions Code Section 4681.4(a) or (b) rate increase funds for a purpose other than those specified in Section 56932(a)(1) through (3).



**INITIAL STATEMENT OF REASONS****TITLE 17 CALIFORNIA CODE OF REGULATIONS****SUBCHAPTER 4.3. Verification of Use of Rate Increase Funds****Direct Care Staff Training Regulations****CERTIFICATE OF COMPLIANCE RULEMAKING****INITIAL STATEMENT OF REASONS****Section 56931. Definitions.****Section 56931(a)(1).****Specific Purpose:**

This proposal is being adopted to define the word “benefits.”

**Rationale for Necessity:**

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by clarifying that the word “benefits” means health insurance, dental insurance, vision insurance, life insurance, long-term disability insurance, retirement plans, sick leave, bonus, paid vacation, holidays, employee assistance programs, employment-related education and training, social security, workers’ compensation, unemployment insurance, and other any mandatory state and federal employer taxes. The word “benefits” is used in Sections 56932 and 56934 in a manner which is consistent with the use of the word in Welfare and Institutions Code Section 4681.4(c)(1). The proposed regulation ensures that regional centers, licensees and all individuals who provide direct care and special services to consumers are informed of the exact meaning of the word “benefits.”

**Section 56931(a)(2).****Specific Purpose:**

This proposal is being adopted to define the word “compensation.”

**Rationale for Necessity:**

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by clarifying that the word “compensation” means the total of: (A) Benefits as defined in subsection (a)(1); (B) Salaries as defined in subsection (a)(7); (C) Wages as defined in subsection (a)(8); and (D) The fair market value of all payments in kind, including, but not limited to, lodging and meals. The word “compensation” is used in Sections 56936 and 56937 in a manner which is consistent with the authorization of Welfare and Institutions Code 4681.4(c). The proposed regulation ensures that regional centers, licensees and all individuals who provide direct care and special services to consumers are informed of the exact meaning of the word “compensation.”

#### Section 56931(a)(3).

##### Specific Purpose:

This proposal is being adopted to define the phrase “competency-based training and testing.”

##### Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by clarifying that the phrase “competency-based training and testing” means competency-based training and testing as defined in Title 17, California Code of Regulations, Section 56031(a)(4), which defines “competency-based training and testing” to mean the two 35-hour competency-based training courses and related competency tests which direct care staff are required by Welfare and Institutions Code Section 4681.5(a), (b) and (c) to complete satisfactorily. The phrase “competency-based training and testing” is used in Section 56932 in a manner which is consistent with the authorization of Welfare and Institutions Code Section 4681(a) and (b). The proposed regulation ensures that regional centers, licensees and all individuals who provide direct care and special services to consumers are informed of the exact meaning of the phrase “competency-based training and testing.”

#### Section 56931(a)(4).

##### Specific Purpose:

This proposal is being adopted to define the word “coverage.”

##### Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of

Welfare and Institutions Code Section 4681.4(e) by clarifying that the word “coverage” means employing qualified substitute direct care staff to provide direct supervision and special services to consumers while direct care staff are attending competency-based training and competency testing or taking a challenge test. The word “coverage” is used in Section 56932 in a manner which is consistent with the use of the word in Welfare and Institutions Code Section 4681.4(c)(2). The proposed regulation ensures that regional centers, licensees and all individuals who provide direct care and special services to consumers are informed of the exact meaning of the word “coverage.”

Section 56931(a)(5).

Specific Purpose:

This proposal is being adopted to define the phrase “direct care staff.”

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by clarifying that the phrase “direct care staff” means facility staff in Service Level 2, 3 and 4 facilities, who personally provide direct supervision and special services to consumers. The term includes the administrator and management or supervisory staff during that time when they are providing direct supervision and special services to consumers. The phrase “direct care staff” is used in Subchapter 4.3 to refer to those individuals who are required to comply with the authorization of Welfare and Institutions Code Section 4681.4(a) and (b). The proposed regulation ensures that regional centers, licensees and all individuals who provide direct care and special services to consumers are informed of the exact meaning of the exact meaning of the phrase “direct care staff.”

Section 56931(a)(6).

Specific Purpose:

This proposal is being adopted to define the word “licensee.”

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by clarifying that the word “licensee” means the adult, firm, partnership, association or corporation, having the authority and responsibility for the operation of a licensed community care facility. The word “licensee” is used throughout Subchapter 4.3 to refer to the person or entity who is responsible for verifying the use of rate increase funds. The proposed regulation

ensures that regional centers, licensees and all individuals who provide direct care and special services to consumers are informed of the exact meaning of the exact meaning of the word ‘licensee.’

Section 56931(a)(7).

Specific Purpose:

This proposal is being adopted to define the word “salaries.”

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by clarifying that the word “salaries” means a fixed dollar amount of pay per pay period paid to direct care staff on a regular basis. The word “salaries” is used in Sections 56932 and 56934 in a manner which is consistent with the authorization of Welfare and Institutions Code Section 4681.4(c)(1). The proposed regulation ensures that regional centers, licensees and all individuals who provide direct care and special services to consumers are informed of the exact meaning of the exact meaning of the word “salaries.”

Section 56931(a)(7).

Specific Purpose:

This proposal is being adopted to define the word “wages.”

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by clarifying that the word “wages” means an hourly rate of pay which is paid to direct care staff. The word “wages” is used in Sections 56932 and 56934 in a manner which is consistent with the authorization of Welfare and Institutions Code Section 4681.4(c)(1). The proposed regulation ensures that regional centers, licensees and all individuals who provide direct care and special services to consumers are informed of the exact meaning of the exact meaning of the word “wages.”

Section 56932.      Purposes.

Section 56932(a)(1).

Specific Purpose:

This proposal is being adopted to require rate increase funds received pursuant to Welfare and Institutions Code Section 4681.4(a) or (b) to be used only for increasing direct care staff salaries, wages and benefits.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by imposing a reasonable limitation on the use of rate increase funds which is consistent with the authorization of Welfare and Institutions Code Section 4681.4(c)(1).

Section 56932(a)(2).

Specific Purpose:

This proposal is being adopted to require rate increase funds received pursuant to Welfare and Institutions Code Section 4681.4(a) or (b) to be used only for reducing turnover of direct care staff and improving the overall quality of consumer care by increasing direct care staff salaries, wages and benefits in a manner which fairly and equitably allocates the rate increase funds derived from Welfare and Institutions Code Section 4681.4(a) or (b) among direct care staff employees with consideration for job tenure, duties, and relative number of hours worked.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by imposing a reasonable limitation on the use of rate increase funds which is consistent with the authorization of Welfare and Institutions Code Section 4681.4(c)(1).

Section 56932(a)(3).

Specific Purpose:

This proposal is being adopted to require rate increase funds received pursuant to Welfare and Institutions Code Section 4681.4(a) or (b) to be used only for providing coverage while direct care staff are attending competency-based training and testing or taking a challenge test.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by imposing a reasonable limitation on

the use of rate increase funds which is consistent with the authorization of Welfare and Institutions Code Section 4681.4(c)(2).

Section 56932(a)(4).

Specific Purpose:

This proposal is being adopted to require that rate increase funds received pursuant to Welfare and Institutions Code Section 4681.4(a) or (b) shall be used only for other purposes which have been approved by the Department.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by imposing a reasonable limitation on the use of rate increase funds which is consistent with the authorization of Welfare and Institutions Code Section 4681.4(c)(3).

Section 56933.      Verification Requirement.

Section 56933.

Specific Purpose:

This proposal is being adopted to require each licensee of a Service Level 2, 3, or 4 facility who receives rate increase funds authorized by Welfare and Institutions Code Section 4681.4 (a) or (b) for the purposes specified in Section 56932(a) to provide to the regional center verification of the use of any rate increase funds received by the licensee.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for each licensee who receives rate increase funds authorized by Welfare and Institutions Code Section 4681.4 (a) or (b) for the purposes specified in Section 56932(a)(1) through (4) to verify the use of any rate increase funds which have been received by the licensee. Because Welfare and Institutions Code Section 4681.4 (c) authorizes the uses of rate increase funds only for specific purposes, the proposed regulation ensures that each licensee of a Service Level 2, 3 or 4 facility who receives such funds reports the use of the rate increase funds to the regional center.

Section 56934. Rate Increase Funds Verification Procedures.Section 56934(a).Specific Purpose.

This proposal is being adopted to require each licensee who receives rate increase funds authorized by Welfare and Institutions Code Section 4681.4(a) during the 1999 calendar year to report in writing the use of those rate increase funds to the regional center.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for each licensee who receives rate increase funds authorized by Welfare and Institutions Code Section 4681.4 (b) to report in writing the use of those rate increase funds to the regional center. The proposed regulation enables the regional center to determine that the rate increase funds is consistent with the authorization of Welfare and Institutions Code Section 4681.4(c).

Section 56934(b).Specific Purpose.

This proposal is being adopted to require each licensee who receives rate increase funds authorized by Welfare and Institutions Code Section 4681.4(b) during the 2000 calendar year to report in writing the use of those rate increase funds to the regional center.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for each licensee who receives rate increase funds authorized by Welfare and Institutions Code Section 4681.4 (b) during a specific calendar year to report in writing the use of those rate increase funds to the regional center. The proposed regulation enables the regional center to determine that the rate increase funds by the licensee is consistent with the authorization of Welfare and Institutions Code Section 4681.4(c).

Section 56934(b)(1).Specific Purpose.

This proposal is being adopted to require the regional center, not less than 30 days prior to the date specified in subsection (c), to notify the licensee in writing of the necessity to report the use of rate increase funds.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the regional center to notify the licensee in writing of the necessity to report the use of rate increase funds to the regional center within a specified time frame. The proposed regulation ensures that any licensee who receives rate increase funds is notified by the regional center of the necessity to report the use of the rate increase funds to the regional center.

Section 56934(c).

Specific Purpose.

This proposal is being adopted to require the licensee's written report pursuant to subsection (a) or (b) to be postmarked no later than March 1 of the calendar year following the year in which the rate increase funds were received by the licensee.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the licensee's written report pursuant to subsection (a) or (b) to be postmarked no later than March 1 of the calendar year following the year in which the rate increase funds were received by the licensee. The proposed regulation ensures that the regional center receives the licensee's report of the use of rate increase funds in time to verify that the rate increase funds have been spent in a manner which is consistent with the authorization of Welfare and Institutions Code Section 4681.4(c).

Section 56934(d)(1).

Specific Purpose.

This proposal is being adopted to require the licensee's written report pursuant to subsection (a) or (b) to contain, but not be limited to, the name, address and telephone number of the facility submitting the report.

Rationale for Necessity:



This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the licensee's written report pursuant to subsection (a) or (b) to contain, but not be limited to, the name, address and telephone number of the facility submitting the report. The emergency regulation ensures that the licensee's written report to the regional center regarding the use of rate increase funds identifies the facility and the licensee who submitted the report.

Section 56934(d)(2).

Specific Purpose.

This proposal is being adopted to require the licensee's written report pursuant to subsection (a) or (b) to contain, but not be limited to, the licensee's vendor identification number.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the licensee's written report pursuant to subsection (a) or (b) to contain, but not be limited to, the licensee's vendor identification number. The proposed regulation ensures that the licensee's written report to the regional center regarding the use of rate increase funds contains information which enhances the regional center's ability to identify the facility and the licensee who submitted the report.

Section 56934(d)(3).

Specific Purpose.

This proposal is being adopted to require the licensee's written report pursuant to subsection (a) or (b) to contain, but not be limited to, the amount of rate increase funds the licensee received during the calendar year for which the written report is being submitted.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the licensee's written report pursuant to subsection (a) or (b) to contain, but not be limited to, the amount of rate increase funds the licensee received during a specific calendar year. The proposed regulation ensures that the licensee's written report regarding the use of rate increase funds contains information which enables the regional center to

determine the amount of rate increase funds the licensee received during the specified reporting period.

Section 56934(d)(4)(A).

Specific Purpose.

This proposal is being adopted to require the licensee's written report pursuant to subsection (a) or (b) to contain, but not be limited to, a signed statement that the licensee declares under penalty of perjury under the laws of the State of California that the licensee has read and understands the requirements of Sections 56932 through 56935.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the licensee's written report pursuant to subsection (a) or (b) to contain, but not be limited to, a signed statement that the licensee declares under penalty of perjury under the laws of the State of California that the licensee has read and understands the requirements of Sections 56932 through 56935. The proposed regulation ensures that the licensee's written report regarding the use of rate increase funds contains a statement, which can be used in court, that the licensee is aware of the Department's requirements which specify the purposes of the rate increase funds and the requirement to verify the use of rate increase funds.

Section 56934(d)(4)(B).

Specific Purpose.

This proposal is being adopted to require the licensee's written report pursuant to subsection (a) or (b) to contain, but not be limited to, a signed statement that the licensee declares under penalty of perjury under the laws of the State of California that the licensee has increased direct care staff salaries, wages and benefits in a manner which fairly and equitably allocates the increased funds derived from Welfare and Institutions Code Section 4681.4(a) or (b) among direct care staff with consideration for job tenure, duties, and relative number of hours worked, if applicable.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the licensee's written report pursuant to subsection (a) or (b) to contain, but not be limited

to, a signed statement that the licensee declares under penalty of perjury under the laws of the State of California that the licensee has increased direct care staff salaries, wages and benefits in a manner which fairly and equitably allocated the increased funds derived from Welfare and Institutions Code Section 4681.4(a) or (b) among direct care staff with consideration for job tenure, duties, and relative number of hours worked, if applicable. The proposed regulation ensures that the licensee's written report regarding the use of rate increase funds contains a statement, which can be used in court, that the licensee has utilized the rate increase funds for a purpose which is consistent with Welfare and Institutions Code Section 4681.4(c)(1).

Section 56934(d)(4)(C).

Specific Purpose.

This proposal is being adopted to require the licensee's written report pursuant to subsection (a) or (b) to contain, but not be limited to, a signed statement that the licensee declares under penalty of perjury under the laws of the State of California that the licensee has spent the entire amount of rate increase funds received for the calendar year exclusively and entirely for the purposes authorized pursuant to Welfare and Institutions Code Section 4681.4(c)(1) through (3).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the licensee's written report pursuant to subsection (a) or (b) to contain, but not be limited to, a signed statement that the licensee declares under penalty of perjury under the laws of the State of California that the licensee has spent the entire amount of rate increase funds received for the calendar year exclusively and entirely for the purposes authorized pursuant to Welfare and Institutions Code Section 4681.4(c)(1) through (3). The proposed regulation ensures that the licensee's written report regarding the use of rate increase funds contains a statement, which can be used in court, that the licensee has utilized the rate increase funds for a purpose which is consistent with the authorization of Welfare and Institutions Code Section 4681.4(c)(1) through (3).

Section 56934(e)(1).

Specific Purpose:

This proposal is being adopted to require the licensee's written report pursuant to subsection (a) or (b), for those facilities where the licensee has received the Department's approval to use the rate increase funds for a purpose other than those specified in Section 56932(a)(1) through (3), to contain, but not be limited to, the

information required by subsection (d)(1) through (3).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the licensee's written report pursuant to subsection (a) or (b) for those facilities which have received the Department's approval to use the rate increase funds for a purpose other than those specified in Section 56932(a)(1) through (3) to contain, but not be limited to, the information required by subsection (d)(1) through (3). The proposed regulation ensures that the licensee's written report contains information which enables the regional center to identify the licensee who submitted the report, which is required to include the name, address and telephone number of the facility which submitted the report; the licensee's vendor identification number; and the amount of rate increase funds which were received by the licensee during the calendar year for which the written report is being submitted.

Section 56934(e)(2).

Specific Purpose:

This proposal is being adopted to require the licensee's written report pursuant to subsection (a) or (b), for those facilities where the licensee has received the Department's approval to use the rate increase funds for a purpose other than those specified in Section 56932(a)(1) through (3), to contain, but not be limited to, a signed statement that the licensee declares under penalty of perjury under the laws of the State of California that the licensee has spent the entire amount of rate increase funds received for the calendar year exclusively and entirely for the purposes approved by the Department pursuant to Section 56937.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the licensee's written report pursuant to subsection (a) or (b), for those facilities where the licensee has received the Department's approval to use the rate increase funds for a purpose other than those specified in Section 56932(a)(1) through (3), to contain, but not be limited to, a signed statement that the licensee declares under penalty of perjury under the laws of the State of California that the licensee has spent the entire amount of rate increase funds received for the calendar year exclusively and entirely for the purposes approved by the Department pursuant to Section 56937. The proposed regulation ensures that the licensee's written report regarding the use of rate increase funds contains a statement, which can be used in court, that the licensee has utilized

the entire amount of rate increase funds for the prior calendar year exclusively and entirely for the purposes which have been approved by the Department pursuant to Section 56937, which specifies the procedures for approving the use of rate increase funds for other purposes.

Section 56934(f).

Specific Purpose:

This proposal is being adopted to require the regional center to review a sample of the reports submitted by the licensees pursuant to subsection (a) or (b) to verify that the rate increase funds were spent in accordance with the requirements specified in Section 56932(a)(1) through (4).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the regional center to review a sample of the reports submitted by the licensees pursuant to subsection (a) or (b) to verify that the rate increase funds were spent in accordance with the requirements specified in Section 56932(a)(1) through (4). The proposed regulation ensures that the regional center reviews a sample of the reports pertaining to rate increase funds for the purpose of verifying that the rate increase funds were spent in accordance with Subchapter 4.3.

Section 56934(g).

Specific Purpose:

This proposal is being adopted to require verification of the use of rate increase funds to include, but is not limited to, reviewing any of the work records employers are required to maintain by the Employment Development Department's regulations at Title 22, California Code of Regulations, Section 1085-2.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for verification of the use of rate increase funds to include, but not be limited to, reviewing any of the work records employers are required to maintain by the Employment Development Department's regulations at Title 22, California Code of Regulations, Section 1085-2. The proposed regulation ensures that the regional center reviews: the period covered by the pay period; the name and social security number of each worker;

the date on which the worker was hired, rehired or returned to work after a temporary layoff and the last date the worker performed any services; the worker's workplace, which shall be shown in accordance with such forms and instructions as the department may approve; the remuneration paid to each worker for each pay period, showing separately the money paid, the cash value of all other remuneration received from the employing unit and special payments in cash or kind for services other than those rendered exclusively in a given pay period such as annual bonuses, gifts prizes, etc., showing the nature of such payments and the period during which the services were performed for which special payments were made; all disbursement records which show payments to anyone who performed services; and such other information as may be necessary to enable the employing unit to determine the worker's total remuneration earned in each week.

Section 56934(h).

Specific Purpose:

This proposal is being adopted to require the regional center to retain one copy of each report filed pursuant to subsection (a) or (b) as well as documentation of findings of regional center reviews of verification reports pursuant to subsection (g) for a three year period.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the regional center to retain one copy of each report filed pursuant to subsection (a) or (b) as well as documentation of findings of regional center reviews of verification reports pursuant to subsection (g) for a three year period. The proposed regulation ensures that the regional center retains a copy of each licensee report of the use of rate increase funds for a period of time which is consistent with the duration of rate increase funds and which enables the Department to monitor the regional center to determine that rate increase funds have been spent in compliance with the requirements of Subchapter 4.3 and the authorization of Welfare and Institutions Code Section 4681.4(c).

Section 56936.           Criteria for Approving Rate Increase Funds Use for Other Purposes.

Section 56936(a).

Specific Purpose:

This proposal is being adopted to authorize a licensee who receives rate increase funds authorized by Welfare and Institutions Code Section 4681.4(b) to apply to the Department for approval to use the rate increase funds for purposes other than those specified in Section 56932(a)(1) through (3) when the licensee can document that, effective December 31, 1999, all direct care staff with a minimum of six (6) months of experience were receiving compensation at least equivalent to two-hundred and ten percent (210%) of California's minimum wage which was in effect on December 31, 1998 (\$12.08 per hour).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing an authorization for a licensee who receives rate increase funds authorized by Welfare and Institutions Code Section 4681.4(b) to apply to the Department for approval to use the rate increase funds for purposes other than those specified in Section 56932(a)(1) through (3) when the licensee can document that, effective December 31, 1999, all direct care staff with a minimum of six (6) months of experience were receiving compensation at least equivalent to two-hundred and ten percent (210%) of California's minimum wage which was in effect on December 31, 1998 (\$12.08 per hour). The proposed regulation ensures that, before the licensee applies to the Department for approval of the use of rate increase funds for a purpose which is not authorized by Welfare and Institutions Code Section 4681.4(c)(1) through (3), the licensee will submit documentation to the Department which proves that the licensee has actually raised direct care staff wages to two hundred and ten percent of California's minimum wage which was in effect on a specified date.

Section 56936(b).

Specific Purpose:

This proposal is being adopted to require the licensee, when the licensee has complied with subsection (a), to maintain compensation of direct care staff with a minimum of six (6) months of experience at an amount equivalent to an hourly rate of no less than two-hundred and ten percent (210%) of California's minimum wage (\$12.08 per hour).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the licensee, when the licensee has complied with subsection (a), to maintain compensation of direct care staff with a minimum of six (6) months of experience at an amount equivalent to an hourly rate of no less than two-hundred and ten percent

(210%) of California's minimum wage (\$12.08 per hour). The proposed regulation ensures that the licensee will not lower the compensation of direct care staff following the issuance of the Department's approval for the use of rate increase funds for a purpose which is not authorized by Welfare and Institutions Code Section 4681.4(c)(1) through (3).

Section 56936(c).

Specific Purpose:

This proposal is being adopted to require the use of rate increase funds for purposes other than those specified in Section 56932(a)(1) through (3) to be limited to expenditures which improve the quality of care provided to a consumer(s).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the use of rate increase funds for purposes other than those specified in Section 56932(a)(1) through (3) to be limited to expenditures which improve the quality of care provided to a consumer(s). The proposed regulation ensures that the Department will not approve a use of rate increase funds for any purpose which does not improve the quality of care provided to the facility's consumers.

Section 56937.      Procedures for Approving the Use of Rate Increase Funds for Other Purposes.

Section 56937(a)(1).

Specific Purpose:

This proposal is being adopted to require the licensee, to apply for the Department's approval to use rate increase funds received during calendar year 2000 for purposes other than those specified in Section 56932(a)(1) through (3), to submit to the Department payroll records and other relevant documentation which establish the compensation paid to every direct care staff member for the pay period including December 31, 1999 which clearly demonstrate that on an hourly basis the compensation of each direct care staff member with a minimum of six months of experience, for every hour worked that pay period, equaled or exceeded two hundred and ten percent (210%) of California's minimum wage in effect on December 31, 1998 (\$12.08 per hour).

Rationale for Necessity:



This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the licensee, to apply for the Department's approval to use rate increase funds received during calendar year 2000 for purposes other than those specified in Section 56932(a)(1) through (3), to submit to the Department payroll records and other relevant documentation which establish the compensation paid to every direct care staff member for the pay period including December 31, 1999 which clearly demonstrate that on an hourly basis the compensation of each direct care staff member with a minimum of six months of experience, for every hour worked that pay period, equaled or exceeded two hundred and ten percent (210%) of California's minimum wage in effect on December 31, 1998 (\$12.08 per hour). The proposed regulation ensures that the licensee submits documents to the Department which verify that the licensee has increased direct care staff wages to \$12.08 per hour before the licensee requests the Department's approval for the use of rate increase funds for a purpose which is not specified in Section 56932(a)(1) through (3).

#### Section 56937(a)(2).

#### Specific Purpose:

This proposal is being adopted to require the licensee, to apply for the Department's approval to use rate increase funds received during calendar year 2000 for purposes other than those specified in Section 56932(a)(1) through (3), to submit to the Department work records which employers are required to maintain by Title 22, California Code of Regulations, Section 1085-2 for all employees.

#### Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the licensee, to apply for the Department's approval to use rate increase funds received during calendar year 2000 for purposes other than those specified in Section 56932(a)(1) through (3), to submit to the Department work records which employers are required to maintain by Title 22, California Code of Regulations, Section 1085-2 for all employees, which include the pay period; the name and social security number of each worker; the date on which the worker was hired, rehired or returned to work after a temporary layoff and the last date the worker performed any services; the worker's workplace, which shall be shown in accordance with such forms and instructions as the department may approve; the remuneration paid to each worker for each pay period, showing separately the money paid, the cash value of all other remuneration received from the employing unit and special payments in cash or kind for services other than those rendered exclusively in a given pay period such as annual bonuses, gifts prizes, etc., showing the nature of such payments and the period during which the services

were performed for which special payments were made; all disbursement records which show payments to anyone who performed services; and such other information as may be necessary to enable the employing unit to determine the worker's total remuneration earned in each week. The required documentation verifies the legitimate use of rate increase funds by the licensee at the time the licensee requests the Department's approval to use rate increase funds for any purpose which is not specified in Section 56932(a)(1) through (3).

Section 56937(a)(3).

Specific Purpose:

This proposal is being adopted to require the licensee, to apply for the Department's approval to use rate increase funds received during calendar year 2000 for purposes other than those specified in Section 56932(a)(1) through (3), to submit to the Department a description of the proposed use of the rate increase funds and an explanation of how the proposed other use of rate increase funds is consistent with the criteria specified in Section 56936.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the licensee, to apply for the Department's approval to use rate increase funds received during calendar year 2000 for purposes other than those specified in Section 56932(a)(1) through (3), to submit to the Department an explanation of how the proposed other use of rate increase funds is consistent with the criteria specified in Section 56936. The proposed regulation ensures that any licensee who requests the Department's approval to use rate increase funds received during calendar year 200 for purposes other than those specified in Section 56932(a)(1) through (3) first describes the proposed use of the rate increase funds to the Department and explains to the Department how the proposed use of the rate increase funds is consistent with the need to maintain staff compensation at the level of two hundred and ten percent of California's minimum wage, or \$12.08 per hour, and the necessity to limit the use of rate increase funds to expenditures which enhance the quality of the direct supervision and special services provided to consumers by the facility.

Section 56937(b).

Specific Purpose:

This proposal is being adopted to require the licensee's application to be received by the Department no later than April 30, 2000.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the licensee's application to be received by the Department no later than April 30, 2000. The proposed regulation ensures that the application submitted by the licensee is received by the Department on a date which will enable the Department to comply with Section 56937(c)(1) in a timely manner.

Section 56937(c).Specific Purpose.

This proposal is being adopted to require the proposed use of rate increase funds for a purpose other than those specified in Section 56932(a)(1) through (3) not to be implemented until the licensee is notified in writing of the Department's approval.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the proposed use of rate increase funds for a purpose other than those specified in Section 56932(a)(1) through (3) not to be implemented until the licensee is notified in writing of the Department's approval. The proposed regulation ensures that the licensee will not spend the rate increase funds for a purpose other than the purposes specified in Section 56932(a)(1) through (3) prior to obtaining the written approval of the Department.

Section 56937(c)(1).Specific Purpose.

This proposal is being adopted to require the Department's written approval for the use of the rate increase funds for a purpose other than those specified in Section 56932(a)(1) through (3) to be sent to the licensee and the regional center via certified mail within 60 days of the receipt of the information required by subsection (a)(1) through (3).

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the proposed use of rate increase funds for a purpose other than those specified in Section

56932(a)(1) through (3) to be sent to the licensee and the regional center via certified mail within 60 days of the receipt of the information required by subsection (a)(1) through (3). The proposed regulation ensures that the licensee is informed of the Department's approval for the use of rate increase funds for a purpose other than those specified in Section 56932(a)(1) through (3) within a reasonable period of time in a manner which establishes the date and time that the Department's approval was received by the licensee.

Section 56937(d).

Specific Purpose.

This proposal is being adopted to require the Department's decision to be final.

Rationale for Necessity:

This regulation is necessary to implement and make specific the authorization of Welfare and Institutions Code Section 4681.4(e) by establishing a requirement for the Department's decision to be final. The proposed regulation ensures that the licensee is informed that there is no other avenue of appeal of the Department's approval within the scope of Subchapter 4.3.